

JP



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,086	07/25/2003	Gary Stout	7678.762	3140

7590 02/08/2005

Rick D. Nydegger
 WORKMAN, NYDEGGER & SEELEY
 1000 Eagle Gate Tower
 60 East South Temple
 Salt Lake City, UT 84111

EXAMINER

RICCI, JOHN A

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,086

Applicant(s)

STOUT ET AL.

Examiner

John Ricci

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 7-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/16/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Application/Control Number:
10/627,086
Art Unit: 3714

Page 2

Applicant's election of Claims 1-12 in the reply filed on 11/17/04 is acknowledged. Because applicant did not distinctly and specifically point out any errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 13-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

* * * * *

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 & 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Croan 3,124,240.

Croan shows a packaging kit including a base tray 14, pedestals 25, 26 formed on the base tray, and a lid 7 of opaque material. Although Croan does not disclose that this

Application/Control Number:
10/627,086
Art Unit: 3714

Page 3

package may be used for orthodontic brackets, it includes all structure claimed and could be used for this purpose with no structural change.

* * * * *

Claims 2-5, & 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11 & 12 are allowed.

With regard to claim 11, the prior art does not disclose a package including a base tray, pedestals on the base tray, a blister cover over the pedestals, and a lid for covering the base tray and pedestals. With regard to claim 12, the prior art does not disclose a package including a base tray, pedestals on the base tray, and a lid for covering the base tray and pedestals, in combination with orthodontic brackets, each bracket

Application/Control Number:
10/627,086
Art Unit: 3714

Page 4

temporarily bonded to the top of a respective bracket with
a light curable adhesive.

* * * * *

The prior art made of record and not relied upon is
considered pertinent to applicant's disclosure.

* * * * *

This letter was prepared by Examiner John Ricci, who
can be reached at:

Voice: 571-272-4429

Fax: Use 703-872-9306 for papers to be delivered
directly to the mail room, like formal amendments and
responses, change of address, power of attorney, petitions.

Application/Control Number:
10/627,086
Art Unit: 3714

Page 5

Use 703-783-0439 for papers to be delivered directly to the Examiner, like informal or proposed responses for discussion, or notes in preparation for an interview.

Response by Fax is encouraged to reduce mail processing time. Please don't send duplicate papers by mail and Fax.

My supervisor is Derris Banks, 571-272-4419.

PTO main switchboard: 800-786-9199.

Visit our Web site at www.uspto.gov.



**JOHN RICCI
PRIMARY EXAMINER
ART UNIT 3714**